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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/000,227	11/30/2001	Jianmin Chen	95121961-201001	9224

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BAKER & MCKENZIE  
PATENT DEPARTMENT  
2001 ROSS AVENUE  
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DALLAS, TX 75201

EXAMINER

JUBA JR, JOHN

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 02/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/000,227

Applicant(s)

CHEN ET AL.

Examiner

John Juba

Art Unit

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-59 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION*****Claim Numbering***

This application was filed without a claim numbered "36". Under 37 CFR §1.126, **claims "37 – 60" have been re-numbered as claims 36 – 59**, respectively, with a corresponding change in the claim dependencies. Thus, claims 1, 17, 32, 42, 50, 52, 54, and 58 are the independent claims. It is requested that Applicants make a the same change in their filewrapper. Kindly use these claim numbers in responding to this Office action.

***Election/Restrictions***

This application contains claims drawn to a multitude of patentably distinct species with no truly generic or linking claim present. Obviously, search and examination of *all* of the species (in-band achromatic behavior, polarization insensitivity, degree of retardation, multiple band behavior alone or in combination with a bias element, use of o-plates or a-plates, *etc.*), would represent a serious burden. However, rather than requiring election of a *single* disclosed species, the examiner requests that Applicants elect from what appear to be two independent inventions, generally represented by "Case 1" behavior and "Case 2" behavior described in connection with Table 1.

In the most general respect, this application contains claims drawn to a phase retarder/polarization rotator (or operation), alone or in combination with least one light splitter (or operation). However, the retarder/rotators *as claimed* at differ in their effects:

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Group I - claims 1 – 16 and 32 – 41, drawn to pure polarization rotation of at least one spectral band (without compound or residual retardation), classified in class 359, subclass 494; and

Group II - claims 17 – 31 and 42 – 49, drawn to half-wave rotation of at least two spectral bands with polarization reflection properties (offset optical axis), classified in class 359, subclass 498.

Claims 50 – 59 are drawn to a broader recitation of the combination can be grouped with either Group I or Group II.

However, Group I (and claims 50 – 59) contains claims generic to the following patentably distinct beam splitting operations:

Species Ia – at least one beam splitter with a polarizing effect, claims 10, 14, 15, 37, 51, 53, and 57;

Species Ib – beam splitter with a wavelength selective effect, claims 11 and 38; and

Species Ic – half-silvered mirror beam splitter, claim 12.

Similarly, Group II (and claims 50 – 59) contains claims generic to the following patentably distinct beam splitting operations:

Species IIa – at least one beam splitter with a polarizing effect, claims 22, 27, 45, 51, 53, and 57;

Species IIb – beam splitter with a wavelength selective effect, claims 23 and 46; and

Species IIc - half-silvered mirror beam splitter, claim 24.

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Applicant is required under 35 U.S.C. 121 to elect one of the independent inventions and a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Juba whose telephone number is (703) 308-4812. The examiner can normally be reached on Mon.-Fri. 9 - 5.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

John Juba

  
Primary Examiner, GAU 2872

February 3, 2003